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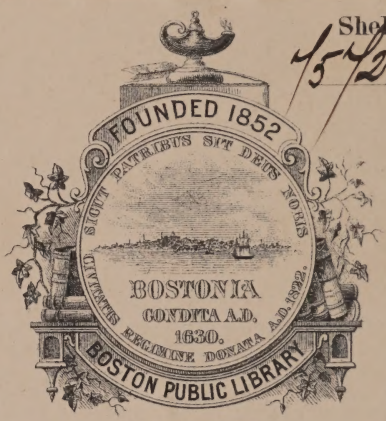

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Limitation of Hours of Tour-workers in Paper Mills.

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ARGUMENT

OF

JOHN T. WHEELWRIGHT, ESQ.

FOR

REMONSTRANTS.

Before Committee on Labor of Massachusetts Legislature, February 28, 1888.

BOSTON:
PRESS OF STANLEY & USHER,
171 DEVONSHIRE STREET.
1888.

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HOURS OF TOUR-WORKERS IN PAPER MILLS.

The petitioners, tour-workers in paper mills, pray that their "hours of labor be changed in so far that they shall begin work on Monday morning at seven (7) o'clock A.M., and stop work at six (6) o'clock P.M. on Saturday night, in place of beginning at twelve (12) o'clock on Sunday night, and stopping at twelve (12) o'clock on Saturday night. In all other respects their work to continue as at present, and on the consideration that they shall still be working sixty-five and one-half (65½) hours per week."

I. TOUR-WORKERS DEFINED.

Tour-workers are the laborers who keep the engines and paper machines of a paper mill in continuous operation during the secular days of the week, and are but a small proportion of the total number of hands employed in a mill.

They are the machine tenders and assistant machine tenders; (pulp and rag) engineers and assistant engineers, and boiler tenders. For many years it has been customary in all parts of this country to run the machinery of paper mills continuously during the week; and it is admitted to be necessary for the successful operation of paper mills that the machinery be run continuously, so far as is possible. Most of the workmen and women in paper mills are day-

workers laboring the same hours as work-people in other factories; but longer hours are necessarily required of the tour-workers, as will appear hereafter.

WAGES OF TOUR-WORKERS.

For these longer hours, these workmen receive proportionate compensation; and the petitioners admit that they are content with their wages. Inquiries among sixteen firms and corporations engaged in paper manufacturing in Massachusetts show that machine tenders receive from $2.50 to $3.00 a day; assistant machine tenders from $1.25 to $2.00; engineers $1.75, and in some cases in writing-mills $2.50; assistant engineers, $1.25 to $2.00; and boiler tenders from $1.50 to $2.25. The assistants at the machines and engines are usually young men, learning their trade.

HOURS OF LABOR.

It is true that the machinery in paper mills is kept in motion for nearly 144 hours in the week, but it is not true that machine tenders or engineers individually work seventy-two hours per week.

It was conclusively shown at the hearing that the tour-workers in all mills are allowed to leave the mill for one hour during each tour for their meal, and that while they are absent from the mill they are not held in any way to be responsible for the conduct of the machinery, and their places are supplied during their absence, either by the men who work with them on the engine or machine, or from other departments of the mill.

Testimony of George W. Wheelwright, Hon. Wm. A. Russell, Henry T. Page, Wellington Smith, Hon. Byron Weston, and others.

In no case is more than 132 hours of labor in two weeks required of a tour-worker, and this time is almost always shortened an hour or two on Saturdays.

The hours of tour-workers, where they work all night, and all day tours, are as follows: —

The night tour comes on at twelve o'clock Monday morning: —

DAY.	COMES ON.	QUITS.	HOURS.	MINUS.	TOTAL.
MONDAY	12 P.M.				
MONDAY		6.45 A.M.	6 3-4		6 3-4
MONDAY	5.45 P.M.				
TUESDAY		6.45 A.M.	13	1 hour	12
TUESDAY	5.45 P.M.				
WEDNESDAY		6.45 A.M.	13	1 hour	12
WEDNESDAY	5.45 P.M.				
THURSDAY		6.45 A.M.	13	1 hour	12
THURSDAY	5.45 P.M.				
FRIDAY		6.45 A.M.	13	1 honr	12
FRIDAY	5.45 P.M.				
SATURDAY		6.45 A.M.	13	1 hour	12
			71 3-4	5 hours	66 3-4

The next week, this set of workmen goes on the day tour.

The day tour comes on at 6.45 Monday morning: —

DAY.	COMES ON.	QUITS.	HOURS.	MINUS.	TOTAL.
MONDAY	6.45 A.M.				
MONDAY		5.45 P.M.	11	1 hour	10
TUESDAY	6.45 A.M.				
TUESDAY		5.45 P.M.	11	1 hour	10
WEDNESDAY	6.45 A.M.				
WEDNESDAY		5.45 P.M.	11	1 hour	10
THURSDAY	6.45 A.M.				
THURSDAY		5.45 P.M.	11	1 hour	10
FRIDAY	6.45 A.M.				
FRIDAY		5.45 P.M.	11	1 hour	10
SATURDAY	6.45 A.M.				
SATURDAY		11 P.M.	16 1-4	1 hour	15 1-4
			71 1-4	6 hours	65 1-4

The next week, this set of workmen goes on the night tour.

This is not the method of distributing the hours of labor which is most satisfactory to the mill-owners. *The employees*

are permitted to regulate their method of distributing the hours according to their preferences. The old method, and the one preferred by the owners, is shown in the following table: —

The night tour comes on at twelve o'clock Monday morning: —

DAY.	COMES ON.	QUITS.	HOURS.	MINUS.	TOTAL.
MONDAY.	Midnight	Noon	12	1 hour breakfast	11
TUESDAY.	,,	,,	12	1 ,,	11
WEDNESDAY.	,,	,,	12	1 ,,	11
THURSDAY.	,,	,,	12	1 ,,	11
FRIDAY.	,,	,,	12	1 ,,	11
SATURDAY.	,,	,,	12	1 ,,	11
			72	6	66

The next week, this set of workmen goes on the day tour.

The day tour comes on at noon Monday: —

DAY.	COMES ON.	QUITS.	HOURS.	MINUS.	TOTAL.
MONDAY.	Noon	Midnight	12	1 hour supper	11
TUESDAY.	,,	,,	12	1 ,,	11
WEDNESDAY.	,,	,,	12	1 ,,	11
THURSDAY.	,,	,,	12	1 ,,	11
FRIDAY.	,,	,,	12	1 ,,	11
SATURDAY.	,,	11 P.M.	11	1 ,,	10
			71	6	65

The next week, this set of workmen goes on the night tour.

The improvement in the construction of paper mills, and in the machines, has made it possible to run the machines at a greater speed than formerly, and the invention of the Jordan engine and the adoption of other devices have facilitated the process of preparing pulp. But these changes do

not demand a greater skill, or attention on the part of the operative, than was formerly necessary; but really, the improvements in the engines are such, that there is now less need of skill in an engineer, and the greater perfection of the paper-machines prevents breaks of the paper and consequently less labor or skill is required. The speeding of these perfected machines does not give the operatives as great anxiety of mind as they had when tending less complete and effective machines, but it may be here noted that since 1860 the rate of wages paid the tour-workers has nearly doubled.

The work of tour-workers is not one of continuous effort. If the paper-machine goes ill, then the machine-tenders have active and trying work; but in well-regulated mills this seldom happens.

Only the vaguest statements were made by the petitioners at the hearing as to the general health of the tour-workers, but it appeared by the testimony of the remonstrants that tour-workers are generally a healthy and vigorous set of men. In fact, one of the petitioners who testified at the hearing, said that he was sixty-five years of age, and had been employed in paper mills for upwards of fifty years, most of the time as a machine tender, seemed a most robust old gentleman It is certain that there are many applicants for every new position as a machine tender, or engineer, and that many men hold their positions for years in the same mill without injury to their health.

The testimony of manufacturers at this hearing has shown conclusively that a decrease in the hours of working a paper mill will cause a proportional decrease in the product, and (proportionately) a much larger increase in the cost of production. The fixed charges cannot be decreased; and the less paper any given mill makes, the more it costs per pound to make it.

The curtailing of the hours of labor of tour-workers will lessen the amount of labor to be done by the day-hands in paper mills, and thus the first effect would be to throw out of employment a large number of day-hands. There are four or five times as many of these employed in paper mills as tour-workers.

THE SUNDAYS OF TOUR-WORKERS.

The suggestion that tour-working interfered with the Sabbath was shown to be wholly without foundation. It is clear that Sunday is free to the tour-workers, excepting that the set going on early Monday morning require Sunday evenings for rest; but the morning and afternoon hours of service are free to all. A man, leaving work at eleven o'clock P.M., Saturday, should be able to get all the sleep he needs before church time on Sunday. It appeared by evidence at the hearing, that the men are usually out of the mills before this hour on Saturdays; and surely few in any employment get to bed much earlier than this hour on Saturday night.

II. COMPETITION WITH OTHER STATES.

Massachusetts now labors under many disadvantages in the manufacture of paper, as compared with other States; and our manufacturers have to practise greater economy and skill than others in order to compete successfully with mills situated outside the Commonwealth, in States where the power to work the mill is obtained more readily, and where fuel and wood for making fibre are to be had for one third to one fourth the cost in Massachusetts, on account of the nearness of coal fields and of spruce and poplar forests.

1. The proportion of pulp mills to paper mills in Massachusetts is much smaller than in most of the paper-making states, which is a great disadvantage to our manufacturers. Henry T. Page, superintendent of a mill situated in Fitchburg, testified at the hearing that his mill had recently given up the manufacture of wood-news, which it had made for many years, because it was not able to compete with mills which could purchase cheap ground wood pulp.

In Massachusetts there are 148 paper and pulp mills in operation, of which only twelve are pulp mills; while there is the same number of these latter in Maine and Vermont, where the total number of paper and pulp mills is only twenty-eight and thirty-eight respectively. In New Hampshire the ratio of pulp mills to paper and pulp mills is fifteen to forty-three; in New York, forty-four to two hundred and twenty-seven; and in Wisconsin, fifteen to forty-three. In all these com-

peting States, therefore, by a fair inference from these figures, the natural advantages for making pulp are far greater than in Massachusetts, where not one mill in twelve is a pulp mill.

2. Steam, used as a motive-power, is more expensive than water-power. The annual rental at Holyoke for a 65-horse-power for 24 hours is $450; it is calculated that it would cost $3,500 to devolop the same power for the same time on a steam-engine, made up of about $2,500 for coal, and the balance wages of engineer, fireman, and cost of repairs. In the matter of water-power and cheap fuel Massachusetts is inferior to most of the other paper-making States. In Massachusetts nearly one half of the paper mills (seventy out of 148) have to use steam to supplement water as a motive-power; whereas, in Maine, only three mills use steam; in New Hampshire only six; in Vermont, four; and in Wisconsin, two — not one mill out of seven in any one of these States. Now, in paper mills situated on our small streams where steam is used to supplement their water-power, it requires from one and one-fourth to two tons of coal for each ton of paper produced; whereas, when the mill is run by water, only, about three fourths of a ton is necessary for a ton of paper.

In Pennsylvania, New Jersey, and Ohio, on the other hand, a large proportion of the mills (seventy-four, twenty-six, and fifty-six respectively) are able to use steam with economy as a motive-power, because coal is cheap and easily procured. But Massachusetts, while compelled to use steam in half of her mills, is obliged to pay a higher price for her coal, from the fact that there are no near coal-beds.

She is at a disadvantage as compared with the New England States which need not use steam as a motive-power, and the Middle States, which can use it at less cost.

3. The mills in Massachusetts now working short hours are generally engaged in the manufacture of writing or other fine papers, in the manufacture of which this State is preëminent; and in "Lockwood's Directory of the Paper and Stationery Trades for 1887–88" it appears that, out of sixty-four manufactories of the various kinds of writing paper, forty are in Massachusetts, and these forty produce 80 per cent. of the total product. It is obvious that the writing-paper manufacturers might be able, without the coöperation

of mills in other States, to give shorter hours to their tour-workers, as some of them have done; and yet that such a shortening of hours, compulsory in this State alone, would have a ruinous effect upon mills making the coarser grades of paper, in which Massachusetts has no special preëminence, making only 10 per cent. of that quality.

Paper mills of the country outside of Massachusetts are accustomed to run full time. It surely would be unjust to require the manufacturers of any single State to conform to regulations not adopted by the nearest competing States. The wood-news and book mills of Massachusetts have not as cheap power and fibre as mills in many other States, and the margin of profit in these papers is very small. Is it just to load these mills with still another disadvantage?

III. CONSTITUTIONALITY.

As no legislature has ever enacted a law regulating the hours of work of adult males, it can only be a matter of conjecture, whether such a law would be held to be constitutional, and there is no bill proposing such a regulation in terms before you. But it seems to be clear that it would be beyond the power of the legislature, even if public policy did not prevent, to prohibit the use of a paper mill during any hours of a secular day, since it cannot be alleged with truth that a use of a paper mill during any particular hours of the secular week is "a use of property which from its nature may be injurious to the *community*."

"The law will not allow rights of property to be invaded under the guise of a police regulation for the preservation of health or protection against a threatened nuisance, and when it appears that such is not the real object and purpose of the regulation courts will interfere to protect the rights of the citizen."

Watertown *v.* Mayo, 109 Mass. 319.

A police regulation prohibiting the use of private property cannot be justified, because it is to be feared that the health of the workmen employed in the property may be injured by too long hours of work. *In this case it would be possible to use the mill during the whole week, and to employ three sets of tour-workers; each set working only forty-eight hours per week.*

The use of the property must be likely to be injurious to

the health or morals of the *community*, before it can be restrained.

Thus a slaughter-house, if improperly managed, may breed a pestilence, and a saloon may injure the morals of the community; and the use of these properties may be restrained in whole or in part by the legislature.

But a paper mill cannot be placed in the same category; it cannot injure the health or the morals of the community.

The owner of a paper mill cannot be restrained in his use of his mill from 6 P.M. on Saturdays, until 7 A.M. on Mondays, unless it is conceivable that he can be restrained by the legislature exercising its police-power from using his property at all.

The Supreme Court of the United States has decided, in a recent decision, that "a State has power to declare that any place kept and maintained for the illegal manufacture and sale of intoxicating liquors shall be deemed a common nuisance and be abated" (*Mugler* v. *Kansas*, *not reported officially*), the principle declared by the Court being that the States have the power of prohibiting such use of property as will be prejudicial to the health, the morals, or the safety of the *public*.

The allegation of the petitioners that their hours are too long is not sufficient to justify a legislative restraint of the use of paper mills.

To prohibit the use of paper mills, within certain hours of the secular week, would be repugnant with that provision of the 14th Amendment of the Federal Constitution, which declares that no State shall deprive any person of life, liberty, or property, without due process of law, nor deny to any person, within its jurisdiction, the equal protection of law; and it would also be repugnant with Article XII of the Declaration of Rights reserved by the Constitution of this Commonwealth.

It would be a partial prohibition of the use of a paper mill to provide that none of the operatives essential to the conduct of the mill shall be employed between certain hours.

The use of private property is protected by the State and Federal Constitutions, as well as the property itself.

The only value of property is derived from its use. The beneficial title is far greater than the legal title. Take from

the owner the right to use it and to receive its profits, and all that is valuable is taken.

Pumpelly *v.* Green Bay Co. 13 Wallace, 177.

The legislature, which cannot deprive the paper mill owners of the use of their mills during the whole, cannot deprive them of such use for a part, of the week. No law can be passed forbidding any person, firm, or corporation from employing as many persons or as much labor as such person, firm, or corporation may desire, nor forbidding any person to work as many hours a day or a week as he chooses.

Commonwealth *v.* Hamilton Mfg. Co. 120 Mass. 583.

This decision upholds the constitutionality of the "ten-hour law" (Statutes of 1874, c. 221), providing that, in an employment, which the Legislature has evidently deemed to some extent dangerous to health, no woman or minor under the age of eighteen shall be engaged in labor more than ten hours a day or sixty hours a week: but it would not necessarily be an authority to support a law regulating the hours of labor of *adult males*, and it is against the constitutionality of a law regulating the hours of running a factory or the employment of the necessary amount of labor to run a factory during week-days.

POLICE-POWER.

The compensation of proprietors of ferries, hackney-carriages, and turnpike roads; of common carriers, millers, bakers, wharfingers, and innkeepers, has, before and since the adoption of the Constitution, been regulated by governments, since these callings are held to be "affected with a public interest, and not *juris privati* merely."

Property affected with a public interest is property dedicated by its owner to public uses; or, property the use of which was granted by the government, or in connection with which special privileges were conferred.

Munn *v.* Illinois, 94 U. S. 113.

The government may, by *general* regulations, regulate unwholesome trades, slaughter-houses, operations offensive to the senses, the deposit of gunpowder, the application of steam-power to propel cars, the building with combustible

materials, and the burial of the dead, so far as it is necessary for the protection of the rights of others and to secure to them the equal use and enjoyment of their property.

IV. PUBLIC POLICY.

It is admitted by those who appeared in behalf of the petitioners that the tour-workers are satisfied with their wages; that the relations existing between the paper manufacturers and their employees have always been friendly, and that there have never been the contests between employer and employee which have existed in other industries.

The petitioners ask, in form, that their hours be not more than 65 1-2 hours a week, which limit, however, the remonstrants have proved their hours of labor seldom exceed. They also claim a special privilege, to wit: that the hours spent out of the mills at their meals shall be reckoned hours of labor. On this principle the women and children in our factories now work eleven hours a day. What the tour-workers really ask for in their petition is 59 1-2 hours of labor, as now reckoned in our legislation.

And they say at the same time that this is not a question of wages but of hours. But it is my contention that the question of hours and wages cannot be separated. It is by no means certain that the majority of the tour-workers in Massachusetts desire shorter hours at the expense of lower wages. It is, however, *certain* that, if the tour-workers labor one twelfth less than they do at present, the wages paid them must necessarily be decreased; for the manufacturers will be deprived not only of this labor, but of the use of their plant for one month out of twelve. With the present sharp competition, and small margin of profits, wages must inevitably decrease if the hours are lessened to such an extent.

Does not the fact that the relations existing between employer and employee in the industry have always been harmonious show that the owners of the mills have been fair and liberal men? Does it not show that the employees have been contented with their wages and their lot? This is the strongest possible argument against legislative interference with this business. I do not believe that the majority of these skilled workmen, who have shown for years such good sense, wish to be the only adult male workingmen in the State to be put under the *guardianship* of the legislature.

The tour-workers in paper mills, moreover, are not the only workmen who are accustomed to be at their place of labor more than ten hours a day. Employees on steam and horse railways, gas and glass works, barbers, bakers, farm laborers, servants in private houses and in hotels and restaurants, barkeepers, watchmen and firemen in other factories, policemen, soldiers, sailors, and employees in iron furnaces and electrical light plants, and in many mercantile establishments, are among the examples that will at once occur to every one. There are 274 men, divided into day and night gangs, employed in the Boston Gas Company's works, and working Sundays. There are only about fifteen hundred tour-workers in the paper mills in the State; in fact, the number of men employed as tour-workers in gas works greatly exceeds this number. Hotel servants average 14 hours a day, much of it night work, and bakers average 15 to 16 hours every day, including Sundays.

Is it to be the policy of Massachusetts to tie its citizens to its apronstring? If this petition be granted, it must in justice follow that a general law should be passed, limiting the hours of labor of all adult males. Are you prepared to face this result, and to put our grown men under guardianship?

The statute of 1874, chap. 221, prohibiting the employment of all persons under the age of eighteen, and of all women, in laboring in any manufacturing establishment more than sixty hours a week, has been approved, because it deals with persons who have not the strength or ability to protect themselves by organization, and who, therefore, may well be put under the protection of the State. But a distinction has always been drawn between legislation regulating the employment of women and children and legislation which should regulate the employment of male adults. These last form the State in a democracy and are its bone and sinew; and are supposed to be able to look after their own interests, and not to need the surveillance of their own servants, the legislators. A body of men who obtain rights and privileges by fair personal endeavor, through self-dependence and organization, are made the stronger and better, not only by their improved condition, but by the fact that such improvement was due to themselves alone.

This principle was forcibly expressed in a recent debate in

the British Parliament (August 18, 1887), by the representatives of the workingmen, the discussion arising upon an amendment to the Coal Mines, etc., Regulation Bill, providing that "no workman shall be employed in any mine for more than eight consecutive hours."

Mr. Burt (a miner, the miners' representative from Northumberland) said that "he had all his life advocated short hours of labor, but that he had always drawn a distinction between adults on the one hand, and women and children on the other. In this case, he knew that there was an intense desire among miners for this clause; he wanted to point out that so far as adults were concerned, they could do this for themselves."

Mr. Fenwick (the other miners' representative) objected to the clause "because it opened up the possibility of increasing the hours of work of the miners he represented, who solely by the force of their organization and self-dependence had secured" better hours.

Mr. Childers (Gladstonian Radical) opposed amendment: "He was very strongly in favor of combinations among the miners themselves."

Mr. Broadhurst (the head of the English Trades Unions) opposed clause "which proposed to do for grown men what they could do for themselves."

And Mr. Bradlaugh (the extreme Radical, representing shoemakers of Northampton) "emphatically expressed his intention of voting against the clause. The miners ought to be taught to rely upon themselves and not upon the legislature in matters of this kind."

And the clause was rejected by a three to one vote.

I submit that these views, as advanced by the principal labor representatives of Great Britain, are sound, and would be endorsed by all thoughtful labor reformers here. To shorten the working hours of full-grown men by act of legislature is absolutely distinguishable from the righteous protection afforded to women and children; its direct tendency is to substitute reliance upon the legislature for self-dependence on the part of those who should be the self-reliant and independent part of the community.

And such legislation is, so far as I can discover, wholly novel in the States of this country, no one of which has any

law limiting the hours of employment of adult males; and though numerous laws of recent date have been passed in the leading States shortening the hours of labor, they all apply to women and children only, as follows: —

Maine: Has laws regulating employment of women and children (latest statute in 1887).

New Hampshire: The same.

Vermont; Laws regulating employment of children.

Connecticut: Laws regulating employment of women and children (statute in 1887).

Rhode Island: The same (statute in 1885).

New York: The same (statute in 1887).

New Jersey: The same (statute in 1886).

Pennsylvania: No law as to employment of adult males.

Illinois: The same.

Iowa: The same.

Indiana: Laws regulating employment of children (statute in 1885).

Wisconsin: Laws regulating employment of women and children (statute in 1883).

Ohio: The same (statute in 1887).

This table proves, as stated above, that the legislatures of the principal States of this country (including, let it be noted, the chief paper-making States), most of them having been very recently engaged in regulating the employment of labor, have in no case seen fit to exercise guardianship over full-grown men. These facts show the novel character of the legislation now proposed here, and prove that our legislators have appreciated the justice of the distinction, which I have tried to make clear, between the protection of the weak and youthful and a paternal despotism over the citizens who make up the State.

We cannot believe that the Legislature of Massachusetts will pass a law to cripple and perhaps destroy a particular industry, and thus start on a course of legislation which would inevitably lead to the State being a guardian of its male citizens. No one can exactly foresee how much damage a law fettering an industry may do, but certainly no such law should be passed, except for the most convincing reasons, which have not been shown in this case.

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